

Appl. No. : 09/921,158
Filed : August 1, 2001

REMARKS

In response to the Office Action mailed February 14, 2003, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the following remarks.

Abstract Has Been Supplied

The Examiner requested an Abstract of the Disclosure as required by 37 CFR 1.72(b). Applicants' records indicate that an Abstract was included with the application as initially filed. Applicants include herewith on a separate sheet a copy of the originally filed Abstract. No new matter has been added.

Drawing Objections are Resolved

The Examiner objected to the drawings as not showing arms as recited in the claims and described in the specification. Applicants contend that the retractor arms 72, illustrated in at least Figures 2, 4 and 5, discussed in the specification at least paragraphs [0044] and [0053], and covered by at least Claim 1, are amply shown and described in the drawings, claims, and specification. Applicants note that paragraph [0074] as originally written discusses a lock 130 having arms. In paragraph [0075], it is clarified that the lock 130 has swept-back arms 132, which are shown and labeled in Figure 17. The above amendment to paragraph [0074] adds the reference number 132 to the first use of the term "arms" in connection with the lock 130.

Applicants believe that any use of "arms" in the claims is supported by at least one embodiment shown in the drawings and discussed in the specification; thus, Applicants believe that the Examiner's objections to the drawings are resolved without requiring drawing changes. Further, Applicants note that the embodiments discussed and shown in the specification and drawings are not intended to limit the scope of terms, such as "arms", that may be found in the claims.

Claim 12 Satisfies 35 U.S.C. § 112(1)

The Examiner rejected Claim 12 under 35 U.S.C. § 112, first paragraph, contending that the specification does not enable retractor arms that provide an access passage. Specifically, the Examiner refers to arms (132) discussed on page 14, para. [0074] of the specification. Applicants would like to direct the Examiner's attention to Figures 4, 5 and 6 and paragraphs [0053]-[0055], in which an embodiment is described wherein retractor arms 72 provide an access passage through body tissue 96. More specifically, paragraph [0053] of this embodiment states,

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“The retractor arms 72 are then separated as shown in **Figure 5**, thus drawing surrounding tissue 96 away from the wound w and creating a field 100 around the puncture wound w.”

Applicants believe that the specification and drawings provide ample disclosure to support and enable Claim 12. As such, Applicants respectfully request the Examiner to withdraw the rejection of this claim.

Claims Are Patentable Over Zhu (WO 97/20505)

The Examiner rejected Claims 1, 2 and 10-18 under 35 U.S.C. § 102(b) as anticipated by Zhu (WO 97/20505). Several of the claims have been amended to improve clarity, and Zhu does not teach or suggest all of the limitations of any of these claims.

The Examiner’s discussion of the Zhu reference in paragraphs 7-17 of the Office Action is somewhat confusing, because the page and line numbers cited by the Examiner do not appear to match the structure to which the Examiner refers. Applicants assume that when the Examiner refers to a balloon hemostat (see para. 9 of the Office Action), the Examiner means to refer to the balloon 24 depicted in Figures 4 and 6. This balloon 24 is discussed in connection with an embodiment discussed on page 11, line 11 to page 12, line 28, and shown in Figures 4-8 of Zhu. In this embodiment, the balloon 24 is inflated inside the patient’s blood vessel and is used to help position the distal tip of the retractor 37 adjacent the wound site 25 (see Fig 6 & p.11, l.29-p.12, l.3). The balloon does not permanently close or block the wound. Once the retractor 37 is properly positioned, a surgical clip applicator 70 (Fig. 5) is advanced through the retractor 37 to close the wound, and the balloon 24 is removed so that clips can be applied. See p.12, ll.13-29.

Zhu does not teach or suggest all of the limitations of Claim 1 as amended. For example, Claim 1 recites, *inter alia*, mounting a hemostatic material onto an outer surface of a catheter, and advancing the hemostatic material over the outer surface of the catheter into contact with an outer wall of a blood vessel. Zhu does not teach or suggest at least these limitations. As such, Applicants respectfully request the Examiner to withdraw the rejection of Claim 1, and the claims that depend therefrom.

Zhu does not teach or suggest all of the limitations of amended independent Claim 10. For example, Claim 10 recites, *inter alia*, positioning a surgical implement so that a portion of the implement extends through a blood vessel wound and a portion extends out of the wound, and so that the surgical implement substantially plugs the wound, providing a hemostatic material, positioning the hemostatic material about an outer surface of the implement, and

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advancing the hemostatic material distally over the surgical implement so that the hemostatic material engages an outer wall of the blood vessel adjacent the wound. Zhu does not teach or suggest at least these limitations. As such, Applicants respectfully request the Examiner to withdraw the rejection of Claim 10, and the claims that depend therefrom.

Dependent Claims Are Allowable Over Cited References

Claims 2, 5-9 and 11-26 depend from Claims 1 and 10 and include all of the limitations of Claims 1 and 10, which are currently allowable. As such, these claims currently are allowable. However, these claims recite additional patentable subject matter that is not taught or suggested in the cited references such as, for example,

- providing a push member having a distal end and being adapted to move longitudinally relative to the outer surface of the catheter, and engaging the hemostatic material with the distal end of the push member and advancing the push member so as to advance the hemostatic material over the catheter and into contact with the outer wall of the blood vessel;
- holding the hemostatic material in position using the push member while removing the catheter from the blood vessel wound;
- applying suction to clear a field surrounding a wound prior to advancing a hemostatic material;
- removing the implement from the wound and holding the hemostatic material in place on the wound after the implement has been removed so that the material becomes at least partially soaked with blood from the wound; and
- providing a push member having a distal end and being adapted to slide over the surgical implement, and engaging the hemostatic material with the distal end and advancing the push member so as to advance the hemostatic material over the implement.

Applicants contend that all of the pending claims currently are in condition for allowance.

New Claims

New Claims 46-52 have been added to more thoroughly claim the subject matter Applicants consider to be the invention. These claims depend from allowable independent Claims 1 and 10 and recite further patentable subject matter. Applicants contend that all of the new claims are in condition for allowance.

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CONCLUSION


For the foregoing reasons, it is respectfully submitted that the rejections and objections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Respectfully submitted,

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